



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Physical Therapy Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

DAVID SZUCHMAN
Director

By Certified and Regular Mail

July 23, 2008

George N. Gendy, P.T.
888 Easton Ave
Suite 5
Somerset, New Jersey 08873

AUG 5 2008

Mailing Address:
P.O. Box 45014
Newark, NJ 07101
(973) 504-6455

Re: Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Gendy:

This letter is to advise you that the New Jersey State Board of Physical Therapy Examiners (the "Board") has had an opportunity to review information concerning the physical therapy services provided to patient R.D. at Comprehensive Orthopedic Physical Therapy, LLC ("Comprehensive") located in Somerset, New Jersey, the services at issue were provided from October 21, 2005 through January 19, 2006. Specifically, the information reviewed included the patient records of R.D. and the testimony you provided at the investigative inquiry conducted before the Board on November 14, 2006, which you attended Pro. Se.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you engaged in professional misconduct in violation of N.J.S.A. 45:1-21(e). Additionally, probable cause also exists to support a finding that you violated N.J.S.A. 45:1-21(h) in that the patient record does not support the treatment interventions provided to this patient in violation of N.J.A.C. 13:39A-3.1 (a), and the billing charges were excessive in violation of N.J.A.C. 13:39A-3.6.

The Board received information from New Jersey Manufacturers Insurance Group ("N.J.M.") regarding one of its insured patients, R.D., alleging that Comprehensive had billed for inappropriate and inaccurate CPT codes, billed for services not documented in the treatment notes, and billed for services that the patient could perform at home. N.J.M.'s Special Investigations Unit conducted a peer review of the bills submitted for patient R.D. by Comprehensive, which concluded that Comprehensive billed for services not rendered, and charged excessive fees of at least \$425.00 per visit, and engaged in over-utilization.

In your testimony to the Board, you confirmed that you are the owner and sole practitioner at Comprehensive, and that you provided physical therapy services to R.D. for lower back pain resulting from a motor vehicle accident from October 21, 2005 through January 19, 2006. You informed the Board that Comprehensive's billing department had made billing errors for 13 dates of service with patient R.D. and that on July 21, 2006 you reimbursed N.J.M. \$2,192.20. You further testified that you do not know how the errors occurred but that you now review the billing for each patient and have since found no further billing errors.

The Board determined that the records of your initial evaluation of R.D. on October 21, 2005 did not list the patient's age, her employment or occupational history, her cognitive status, or her limitations. You testified that you now use a more detailed computerized system to generate initial evaluation reports. You are hereby advised that in the future initial evaluation forms should have a place to document the patient's employment and medical history, cognitive status, and a list of the patient's limitations.

A review of R.D.'s treatment records and billing records reflects that the patient was billed for attended electrical stimulation in violation of N.J.A.C. 13:39A-3.1 (a) because according to your testimony she received unattended electrical stimulation. You also stated that you were unaware that there was a separate CPT code for unattended electrical stimulation activities and therefore used the attended CPT code. In addition, the patient was billed every session for self-care home management training, which you stated consisted of reviewing her home exercises, but there was no documentation of such review in the treatment record, another violation of N.J.A.C. 13:39A-3.1 (a). Additionally, activities of Daily Living (ADLs), such as lumbar stabilization exercises and bridging exercises to help the patient get out of bed, were incorrectly billed as therapeutic activities. Finally, the patient's specific ADL deficits were not recorded on the initial evaluation and there was no documentation of progress in addressing any of the deficits. In fact, the daily notes were nearly identical for each treatment session and they did not have regular quantifiable indications of the patient's levels of pain, or tolerance of the exercises.

Based on the above information, it appears to the Board that you engaged in "up-coding" by billing for attended electric stimulation when you admitted that the service provided was unattended, and that you billed Activities of Daily Living (ADLs) as therapeutic exercises. The Board further preliminarily concluded that you engaged in "unbundling" by billing separately for each component of the initial evaluation. Additionally, the Board found that your patient records for R.D. did not reflect the patient's progress in exercise or treatment, your initial evaluation of R.D. did not include the patient's employment history, medical history, cognitive status, or a list of the patient's limitations, and your evaluation's conclusion was not supported by the testing performed. The Board finds these actions to constitute excessive billing in violation of N.J.A.C. 13:39A-3.6 and inaccurate record-keeping in violation of N.J.A.C. 13:39A-3.1 (a). Overall, the Board finds these actions appear to be professional misconduct in violation of N.J.S.A. 45:1-21(e).

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Pay a penalty in the amount of \$4,500.00 consisting of \$1,500.00 for the violation of N.J.S.A. 45:1-21(e), \$1,500.00 for the violation of N.J.A.C. 13:39A-3.1(a), and \$1,500.00 for the violation of N.J.A.C. 13:39A-3.6. The penalty is to be paid immediately upon your signing of the acknowledgment at the bottom of this letter. Payment shall be submitted by certified check or money order made payable to the State of New Jersey and sent to the Executive Director of the Board of Physical Therapy Examiners, P.O. Box 45014, Newark, New Jersey 07101.


2. Pay costs incurred by the Board in the amount of \$383.50 which represents investigative costs in this matter. Attached is a certification of costs in this matter. The costs are to be paid immediately upon your signing of the acknowledgment at the bottom of this letter. Payment shall be submitted by certified check or money order made payable to the State of New Jersey and sent to the Executive Director of the Board of Physical Therapy Examiners, P.O. Box 45014, Newark, New Jersey 07101.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

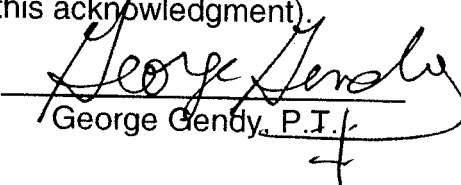
In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of formal disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez, who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of formal disciplinary action.

NEW JERSEY STATE BOARD OF
PHYSICAL THERAPY EXAMINERS

By:  PC NOCAC0099100
Nancy Kirsch, P.T., Ph.D., D.P.T.
Chairperson

ACKNOWLEDGMENT: I, George Gendy, P.T. hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$4,500.00 and costs in the amount of \$383.50 for a total of \$4883.50 (to be paid upon signing of this acknowledgment).

 7/31/08
George Gendy, P.T.

Dated:

cc: Carmen A. Rodriguez, Deputy Attorney General